

**DISTRICT COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

**TIA SMITH,**

**Plaintiff,**

**v.**

**SGS NORTH AMERICA, INC., and  
MATTHEW REILLY,**

**Defendants.**

**1:07-cv-14**

**TO: Lee J. Rohn, Esq.  
Sharmane Davis-Brathwaite, Esq.**

**ORDER**

THIS MATTER came before the Court upon Plaintiff's Emergency Motion to Compel Mediation on August 11, 2009 (Docket No. 115). Defendant filed a response to said motion. The time for filing a reply has expired.

While the Court is sympathetic to Plaintiff's deployment, the Court cannot ignore that fact that mediation cannot go forward on August 21, 2009, as agreed, because of Plaintiff's unavailability. Upon inquiry, the representative for Defendant SGS North America, Inc., indicated that he could be available any day in August prior to the 6<sup>th</sup>. Based upon such information, the Court will not compel said Defendant to mediate on August 11, 2009. Because it is Plaintiff who will not be available to mediate as previously agreed

on August 21, 2009, and it is Plaintiff who chose to bring this action, it is Plaintiff who should make herself available to mediate between August 1-5 to accommodate said Defendant's schedule.

WHEREFORE, it is now hereby **ORDERED** that Plaintiff's Emergency Motion to Compel Mediation on August 11, 2009 (Docket No. 112) is **DENIED**.

ENTER:

Dated: July 24, 2009

/s/ George W. Cannon, Jr.

GEORGE W. CANNON, JR.

U.S. MAGISTRATE JUDGE